

STEPHEN J. SORENSON, Acting United States Attorney (#3049)
JARED C. BENNETT, Assistant United States Attorney (#9097)
185 South State Street, #400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No. 2:05CV1060 TS
 Petitioner,	:	
 v.	:	REPORT AND RECOMMENDATION
DOUGLAS R. MADSEN,	:	District Judge Ted Stewart
 Respondent.	:	Magistrate Judge David O. Nuffer

The United States of America filed a petition to enforce its May 19, 2005 IRS Summons ("the Summons") pursuant to [26 U.S.C. §§ 7402\(b\)](#) and 7604(a). Judge Stewart issued an Order to Show Cause on January 25, 2006, which referred this matter to the undersigned under [28 U.S.C. § 636\(b\)\(3\)](#). [United States v. Jones](#), 581 F.2d 816, 817 (10th Cir. 1978) (referring IRS summons enforcement to magistrate judge under [28 U.S.C. § 636\(b\)\(3\)](#)).

In the Order to Show Cause ("OTSC"), Respondent was directed to file a written response supported by sworn affidavits to the United States' Petition to Enforce the Summons ("the Petition") within ten days of the OTSC being served upon him. The OTSC informed Respondent that only those issues raised in the written response and supported by sworn affidavits would be considered by the Court and that all allegations in the Petition not contested by the written response and sworn statements would be deemed admitted. See [United States v. Balanced Fin. Mgmt., Inc.](#), 769 F.2d 1440, 1444 (10th Cir. 1985). The OTSC also directed the undersigned to convene a hearing on

February 27, 2006 at 11:15 a.m. to hear any arguments that would assist the undersigned in determining whether Respondent has shown cause. Respondent failed to appear at the hearing because he was serving an ecclesiastical mission in Maine. Consequently, the undersigned ordered that the parties have a telephone conference on April 10, 2006 at 10:00 a.m. to determine Respondent's willingness to comply with the Summons.

The teleconference hearing was held on the record on April 10, 2006, and based on the arguments and representations presented in the Petition and at the above-mentioned teleconference, the undersigned reports the following:

1. Respondent failed to file any written response supported by sworn statements providing reasons why he should not be compelled to comply with the Summons.
2. Respondent agreed to provide to the IRS the information required by the Summons on or before July 6, 2006 and agreed to meet with the IRS sometime during the week of June 26, 2006 to ensure that he could comply with the July 6, 2006 deadline.

Consequently, the undersigned recommends that:

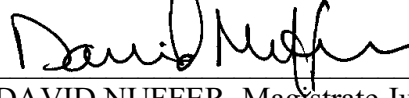
1. The District Court find that Respondent has failed to show cause why he should not be compelled to comply with the Summons; and
2. The District Court order Respondent to provide the information required by the Summons on or before **July 6, 2006** to the IRS, which is located at 50 South 200 East, Salt Lake City, Utah 84111.
3. The District Court order Respondent to meet with the IRS on **June 28, at 10:00 a.m.** at the IRS offices located at the above-mentioned address.

Within 10 days after being served with a copy of this Report and Recommendation, a party may serve and file specific, written objections. A party may respond to another party's objections

within 10 days after being served with a copy thereof. Pursuant to 28 U.S.C. § 636(b)(1)(C), the District Judge to whom this case is assigned shall make a de novo determination upon the record of any portion of the undersigned's disposition to which specific written objection has been made. The District Judge may accept, reject, or modify the recommended decision, receive further evidence, or re-commit the matter to the magistrate judge with instructions.

DATED this 10th day of April 2006.

BY THE COURT:

A handwritten signature in black ink, appearing to read "David Nuffer", is written over a horizontal line.

DAVID NUFFER, Magistrate Judge
United States District Court

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office for the District of Utah, and that a copy of the foregoing Report and Recommendation and Order Vacating May 1, 2006 Video Conference Hearing were mailed, postage prepaid, this 10th day of April, 2006 to the following:

Douglas R. Madsen
246 High Street, #202
Belfast, ME 04915

A handwritten signature in blue ink, appearing to be "Douglas R. Madsen", written over a horizontal line.